

1 EVELLE J. YOUNGER, Attorney General
2 SAMUEL E. SPITAL,
Deputy Attorney General

3 110 West "A" Street, Suite 600
4 San Diego, California 92101
Telephone: (714) 237-7873

5 Attorneys for Complainant
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8 BEFORE THE DIVISION OF MEDICAL QUALITY

9 BOARD OF MEDICAL QUALITY ASSURANCE

10 DEPARTMENT OF CONSUMER AFFAIRS

11 STATE OF CALIFORNIA

12 In the Matter of the Accusation)
13 Against:)

NO. D-2034

14 FRED WARREN TEN EYCK, M.D.
15 351 Hospital Road #511
Newport Beach, California 92660)

DECISION

16 Physician's and Surgeon's
Certificate No. A-16489

17 Respondent.
18

19 The attached Stipulation for Settlement is hereby
20 adopted by the Division of Medical Quality, Board of Medical
21 Quality Assurance of the State of California as its Decision
22 in the above entitled matter.

23 This Decision shall become effective on the 12th day
24 of JULY, 1978.

25 IT IS SO ORDERED THIS 12th day of JUNE, 1978.

26 *Michael J. Carolla*
27 DIVISION OF MEDICAL QUALITY
Board of Medical Quality Assurance
Department of Consumer Affairs
State of California

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13 In the Matter of the Accusation
14 Against:

NO. D-2034

15 FRED WARREN TEN EYCK, M.D.
16 351 Hospital Road #511
Newport Beach, California 92660

STIPULATION FOR SETTLEMENT

17 Physician's and Surgeon's
18 Certificate No. A-16489

19 Respondent.
20

21 IT IS HEREBY STIPULATED AND AGREED by and between the
22 parties to the above entitled matter that the following allega-
23 tions are true:

24 1. That Robert Roland, complainant at the time of
25 the filing of the within accusation, and the Executive Director
26 of the Division of Medical Quality, Board of Medical Quality
27 Assurance of the Department of Consumer Affairs of the State
of California, is represented herein by Evelle J. Younger,

1 Attorney General of the State of California, by Samuel E.
2 Spital, Deputy Attorney General.

3 2. That Fred Warren Ten Eyck, M.D., is represented
4 by Dexter Penman, Esq., and Kenneth E. Mick, Esq. That
5 respondent has retained Dexter Penman, Esq., and Kenneth
6 E. Mick, Esq., as his attorneys in regard to the administrative
7 action herein and that the respondent has counseled with Dexter
8 Penman and Kenneth E. Mick concerning the effect of this
9 Stipulation, which the respondent herein has carefully read
10 and scrutinized and which he fully understands.

11 3. That the respondent has received and read the
12 Accusation which is presently on file and pending in Case No.
13 D-2034 before the Division of Medical Quality, Board of Medical
14 Quality Assurance of the Department of Consumer Affairs of
15 the State of California.

16 4. That the respondent understands the nature of
17 the charges alleged in the above mentioned Accusation and
18 that said charges and allegations would constitute causes for
19 imposing discipline upon the respondent's physician's and
20 surgeon's certificate heretofore issued by the Board of Medical
21 Quality Assurance.

22 5. That the respondent and each of his attorneys
23 are aware of each of respondent's rights, including the right
24 to a hearing on the charges and allegations; respondent's
25 right to confront and cross-examine witnesses who would testify
26 against him; respondent's right to present evidence in his
27 favor or to call witnesses in his behalf, or to so testify

1 himself; respondent's right to contest the charges and any
2 other rights which may be accorded him pursuant to the
3 California Administrative Procedure Act (Gov. Code § 11500,
4 et seq.); his right to reconsideration, appeal to superior
5 court and to any other or further appeal; that respondent
6 understands that in signing this Stipulation, rather than
7 contesting the Accusation, he is enabling the Division of
8 Medical Quality, Board of Medical Quality Assurance, to revoke
9 his license, which was heretofore issued by the Board of
10 Medical Quality Assurance, upon this Stipulation without
11 further process.

12 6. That respondent freely and voluntarily waives
13 each and every one of the rights set forth hereinabove; that
14 respondent, rather than contesting the charges in the Accusation
15 presently on file at a formal hearing, for the purpose of the
16 instant proceeding before the Division of Medical Quality,
17 Board of Medical Quality Assurance, only, admits and stipulates
18 to the truth and accuracy of each and every one of the allega-
19 tions and charges enumerated in paragraphs 1 through and
20 including 6 (C), on pages 1 through and including page 5
21 of the said Accusation.

22 7. That the Division of Medical Quality, Board of
23 Medical Quality Assurance, has the authority to take disciplinary
24 action against respondent's license pursuant to sections 2360
25 and 2392 of the Business and Professions Code.

26 8. That based upon all of the foregoing admissions,
27 stipulations and recitals, it is stipulated and agreed that

1 the Division of Medical Quality, Board of Medical Quality
2 Assurance, may issue a Decision upon this Stipulation whereby:

3 A. Physicians and Surgeons Certificate No. A-16489
4 heretofore issued to respondent Fred Warren Ten Eyck, M.D.,
5 is hereby revoked, provided, however, said revocation
6 is stayed for a period of ten (10) years on the
7 following conditions:

8 (1) Respondent shall comply with all
9 laws of the United States, State of Cali-
10 fornia and its political subdivisions, and
11 the rules and regulations of the Board of
12 Medical Quality Assurance.

13 (2) Respondent shall initiate and
14 file with the Division of Medical Quality
15 at its office in Sacramento, California, at
16 quarterly intervals after the effective date
17 of this order, an affidavit setting forth
18 the respondent's then present residence and
19 office addresses, and shall set forth, if
20 such be the case, that respondent has fully
21 and faithfully complied with all of the
22 terms and conditions of probation herein
23 imposed; if respondent has failed to comply
24 with any of the terms and conditions of pro-
25 bation, or has committed any acts in viola-
26 tion of this order, the same shall be fully
27 set forth and explained in said affidavit.

1 Failure to file this affidavit or to in-
2 clude therein the information above specified
3 shall constitute a violation of the terms of
4 probation.

5 (3) Within 90 days following the effec-
6 tive date of this decision, a medical con-
7 sultant in the Division will send respondent
8 written notice of the time, date and place for
9 an initial interview to discuss the terms and
10 conditions of probation. Respondent shall
11 report in person to the medical consultant as
12 requested, and, during probation, shall appear
13 in person for subsequent interviews held at
14 least once a calendar year, as directed by the
15 medical consultant or by the Division.

16 (4) Respondent shall fully and completely
17 comply with the probation surveillance program
18 and cooperate with any agent of the Board
19 operating thereunder.

20 (5) Respondent shall completely abstain
21 from the use of alcohol, narcotics, or
22 dangerous drugs in any form except when a
23 bona fide patient of a physician or surgeon,
24 and the same is lawfully prescribed for him
25 for a medical condition. Respondent shall not
26 prescribe for himself.

27 /

1 (6) Respondent shall, within 15 days
2 of the effective date of this Decision, con-
3 sult a licensed physician and surgeon who
4 specializes in psychiatry of his own choosing
5 approved by the Board. Commencing on January
6 1, 1978, respondent shall have such psychia-
7 trist provide semi-annual reports to the Board
8 at its Sacramento office, located at 1020
9 1430 Howe Avenue, Sacramento, California,
10 ~~"N" Street, Room 434, Sacramento, California~~
11 95825, ~~95814~~, setting forth the diagnosis, progress
12 and prognosis of respondent's condition. The
13 psychiatrist's reports shall be submitted to
14 the Board in Sacramento during the period of
15 probation or until the psychiatrist determines
16 that respondent is no longer in need of
17 treatment.

18 (7) Respondent shall, within 15 days of
19 the effective date of this Decision, consult a
20 licensed physician and surgeon who specializes
21 in internal medicine of his own choosing
22 approved by the Board. Respondent shall have
23 such physician provide his reports to the
24 Board at its Sacramento office, located at
25 1430 Howe Avenue,
26 ~~1020 "N" Street, Room 434, Sacramento,~~
27 California ~~95825,~~ 95814, setting forth the diagnosis
and prognosis of respondent's condition. Such
reports shall be submitted to the Board in

March 15, 1978
Frank J. [unclear]
Deputy [unclear]
Kenneth E. Nicks

March 15, 1978
Frank J. [unclear]
Deputy [unclear]
Kenneth E. Nicks

1 Sacramento during the period of probation or
2 until the physician determines that respondent
3 is not in need of medical treatment.

4 (8) At the Board's option to be exercised
5 at any time during respondent's probationary
6 period, respondent will also submit to a
7 complete diagnostic examination by one or more
8 physicians or surgeons specializing in psy-
9 chiatry appointed by the Board.

10 (9) Respondent at the request of an agent
11 of the Board shall submit to a urine or other
12 appropriate tests for the detection of alcohol,
13 narcotics, or dangerous drugs.

14 (10) Respondent shall attend Alcoholics
15 Anonymous meetings at least twice a week for at
16 least 45 weeks a year, during said period of
17 probation.

18 Should the Division of Medical Quality,
19 after notice to respondent and an opportunity
20 to be heard, determine that respondent has
21 during the period of probation violated any
22 term or condition herein imposed, said
23 Division may reimpose the revocation or make
24 such other or further order as it may then
25 deem just and reasonable in the exercise of
26 its discretion. Proceedings to reimpose the
27 revocation or make any other disciplinary

1 order with respect thereto shall be initiated
2 within the period of probation or within one
3 year after the termination thereof; otherwise
4 the stay shall become permanent.

5 EVELLE J. YOUNGER, Attorney General
6 SAMUEL E. SPITAL,
7 Deputy Attorney General

8 *Dated 11/14/77*
9 By *Samuel E. Spital*
10 SAMUEL E. SPITAL
11 Deputy Attorney General

12 Attorneys for Complainant

13 DEXTER PENMAN, Esq.

14 By *Dexter Penman*
15 DEXTER PENMAN, Esq.

16 KENNETH E. MICK, Esq.

17 By *Kenneth E. Mick*
18 KENNETH E. MICK, Esq.

19 Attorneys for Respondent

20 I have read the above document and fully discussed it
21 with my attorneys. I agree to the above Stipulation for
22 Settlement.

23 DATED: *Nov 9, 1977* *F. W. Ten Eyck*
24 F. W. TEN EYCK, M.D.

25 Subscribed and sworn to before me
26 this *9th* day of *Nov.*, 1977.

27 *15/ Susan K. Penman*
Notary Public

1 EVELLE J. YOUNGER, Attorney General
2 SAMUEL E. SPITAL,
3 Deputy Attorney General
4 110 West A Street, Suite 600
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8 BEFORE THE DIVISION OF MEDICAL QUALITY
9 BOARD OF MEDICAL QUALITY ASSURANCE
10 DEPARTMENT OF CONSUMER AFFAIRS
11 STATE OF CALIFORNIA

12
13 In the Matter of the Accusation
14 Against:

NO. D-2034

15 FRED WARREN TEN EYCK, M.D.
16 351 Hospital Road, #511
17 Newport Beach, California 92660

ACCUSATION

18 Physician's and Surgeon's
19 Certificate No. A-16489,

20 Respondent.

21 ROBERT ROWLAND alleges:

22 1. He is the Executive Director of the Board of
23 Medical Quality Assurance of the State of California and files
24 this Accusation in his official capacity.

25 2. On or about July 6, 1955, respondent Fred Warren
26 Ten Eyck, M.D., was issued License No. A-16489 by the Board.
27 The license is in full force and effect.

1.

1 3. All section references are to the Business and
2 Professions Code.

3 4. Respondent is subject to disciplinary action
4 pursuant to Business and Professions Code sections 2360, 2361(e)
5 and 2390, which provide:

6 A. Section 2360 authorizes the Board to take
7 disciplinary action against the holder of a physician's
8 and surgeon's certificate who is guilty of unprofessional
9 conduct.

10 B. Unprofessional conduct is defined in section
11 2390 as the use of alcoholic beverages to the extent
12 such use is injurious to the licentiate or another;
13 section 2390 further provides the record of a conviction
14 of more than one misdemeanor involving the use of
15 alcohol is conclusive evidence of unprofessional conduct.

16 C. Unprofessional conduct is defined in section
17 2361(a) as the violation of any provision or term
18 of the Medical Practice Act (§§ 2000 et seq.); section
19 2435 provides it is unlawful for a physician, while
20 in attendance on patients, to be intoxicated to the
21 extent as to be injurious to another.

22 4. Respondent's certificate is subject to discipline
23 under section 2360 because he has engaged in unprofessional
24 conduct within the meaning of section 2390. Respondent has
25 been convicted of more than one misdemeanor involving the
26 use of alcohol, as more particularly alleged below:

1 A. On or about March 28, 1966, in the Municipal
2 Court, Newport Beach Judicial District, County of Orange,
3 State of California, Case No. 37924 entitled "People
4 of the State of California v. Fred Warren Ten Eyck,"
5 respondent pled guilty to a violation of Penal Code
6 section 647(f) (public intoxication). Respondent was
7 ordered to pay a fine plus penalty assessment.

8 B. On or about August 30, 1971, in a proceeding
9 in the Municipal Court, Harbor Judicial District,
10 County of Orange, State of California, Case No. F-5462,
11 entitled "People of the State of California v. Fred Warren
12 Ten Eyck," respondent pled nolo contendere to a mis-
13 demeanor (felony charge amended) violation of section
14 23101 and 22450 of the Vehicle Code (driving a vehicle
15 while under the influence of alcohol, which proximately
16 caused bodily injury to another). Respondent was ordered
17 to pay a fine of \$612.50 plus penalty assessment, and
18 required to attend two "AA" meetings per week for 15
19 weeks.

20 5. Respondent further engaged in unprofessional
21 conduct under sections 2360 and 2390 because he used
22 alcoholic beverages to the extent such use was injurious to
23 himself or another. The circumstances are:

24 A. On or about April 1, 1967, respondent was
25 intoxicated in public. At approximately 6:15 p.m.,
26 while driving his car, respondent collided with a
27 vehicle parked in front of 1400 West Pacific Coast Highway,

1 Newport Beach. After the collision, respondent stated:
2 "What did I hit. I didn't see the parked vehicle. I
3 am smashed. I have been drinking most of the day."

4 B. On or about April 17, 1975, respondent was
5 intoxicated in public at the approximate location of
6 Jamboree, between San Joaquin and Ford, to the extent
7 such conduct posed a danger of injury to himself and
8 others.

9 C. On or about December 16, 1975, respondent was
10 intoxicated in public at the location of 4545 MacArthur
11 to the extent such conduct posed a danger of injury
12 to himself and others.

13 6. Respondent's certificate is subject to discipline
14 under section 2361(a) in conjunction with section 2435 in that
15 respondent, while in attendance on patients, was intoxicated
16 to the extent such use was injurious to himself and others. The
17 circumstances are as follows:

18 A. On or about February 2, 1974, at approximately
19 2:30 p.m., respondent, while in attendance to one of
20 his patients at Hoag Memorial Hospital, Newport Beach,
21 was intoxicated to the extent such use posed a danger
22 of injury to himself and others.

23 B. On or about January 28, 1975, at approximately
24 9:00 a.m., respondent, while in attendance to one of
25 his patients at Hoag Memorial Hospital, Newport Beach,
26 was intoxicated to the extent such use posed a danger
27 of injury to himself and others.

1 C. On or about February 21, 1975, at approximately
2 9:00 a.m., respondent, while in attendance to one of
3 his patients at Hoag Memorial Hospital, Newport Beach,
4 was intoxicated to the extent such use posed a danger of
5 injury to himself and others.

6 WHEREFORE, complainant requests tht the Board hold
7 a hearing and upon proof of the charges contained herein, take
8 such action as is authorized by section 2372 of the Code, to wit:

9 1. Revoke or suspend License No. A-16489 issued to
10 respondent Fred Warren Ten Eyck, M.D.; and

11 2. Take such other and further action as the Board
12 deems proper.

13 DATED: July 7, 1977

14 

15 ROBERT ROWLAND
16 Executive Director
17 Board of Medical Quality Assurance
18 State of California

19 Complainant
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